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FISCAL IMPACT STATEMENT

LS 7443
BILL NUMBER: HB 1270

NOTE PREPARED: Feb 14, 2011
BILL AMENDED: Feb 14, 2011

SUBJECT: Taxation of cooperative housing corporations.

FIRST AUTHOR: Rep. Pryor
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Cooperative Housing:* This bill establishes standards for determining when a cooperative housing corporation is eligible for a standard deduction or a 1% circuit breaker credit.

Contract Property Sales: The bill specifies the terms that a contract for the purchase of real property must include to qualify the buyer for certain property tax deductions. It defines a contract containing the required terms as a qualified installment contract.

The bill provides that a person who: (1) owns property subject to taxation; (2) misrepresents a residential lease as a qualified installment contract; and (3) through the person's misrepresentation causes another individual to improperly claim a deduction that is made available to a buyer under a qualified installment contract; is liable for any additional taxes that would have been due on the property if the person had leased the property to the purported contract buyer, plus a civil penalty equal to 10% of the additional taxes due.

Effective Date: March 1, 2011 (retroactive); July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Contract Property Sales:* The Department of Local Government Finance (DLGF) would receive 1% of the total civil penalties collected under this bill. The revenue would be used for maintaining the homestead property database.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Cooperative Housing:* Under current law, homesteads receive a standard deduction worth 60% of AV up to $45,000. Homesteads also receive the supplemental standard deduction worth 35% on the first $600,000 of net AV after the standard deduction plus 25% of the net AV that exceeds $600,000. In addition, homestead property is subject to a 1% circuit breaker cap.

A homestead is defined as a an individuals's principal residence that the individual owns or is entitled to occupy as a tenant-stockholder of a cooperative housing corporation or one that is owned by certain trusts. This bill would define an eligible cooperative housing corporation. A tenant-stockholder would qualify as a homesteader only if the property is "*eligible* cooperative housing corporation property".

Under this bill, eligible cooperative housing corporation property is property that is (1) owned by a cooperative housing corporation; and (2) used as a principal residence by a tenant-stockholder who can demonstrate an ownership interest in the shares of the co-op that has a value at least equal to the true tax value of the residence.

This bill would restrict homestead status to only those housing co-ops that meet these guidelines. Co-op property that doesn't meet the above guidelines would lose their homestead status beginning with taxes payable in CY 2012. There is no data currently available to identify those properties that would be affected.

Loss of homestead status for any property would mean the loss of the standard and supplemental standard deductions, as well as being subject to the 2% circuit breaker cap for non-homestead residential property rather than the 1% cap for homesteads. The loss of the deductions would add assessed value to the tax base and shift part of the tax burden to the affected property owners from all other property owners. The higher property tax cap would potentially reduce revenue losses for taxing units where the property is located.

(Revised) *Contract Property Sales:* Under current law, several property tax deductions are available to qualifying persons who either own property or are buying the property under contract. This bill would affect the mortgage, elderly, blind / disabled, disabled veteran, WWI veteran (and spouse), and homestead standard deductions. In order to qualify for these deductions, this bill specifies that the contract must (1) be recorded, (2) require the buyer to pay property taxes, (3) specify the total contract price, and (4) require the seller to issue a deed or other evidence of title upon full payment.

A fiscal impact would occur only if a current or future contract does not contain these terms. If a contract does not meet these requirements, then the deduction would be terminated. Without the deduction(s), the net assessed value of the property would increase which would add to the tax base and reduce tax rates. In addition, if the standard deduction is removed from a property, then taxes on the property would be capped at the 2% residential cap rate rather than the 1% homestead cap rate.

Beginning with mobile home taxes payable in CY 2012 and real property taxes payable in CY 2013 under the bill, a seller who makes a misrepresentation that causes a buyer to improperly claim a deduction would be liable for all back taxes including penalties and interest, plus an additional 10% penalty.

The actual fiscal impact depends on the number of contracts that would be deemed by county officials to be nonconforming.

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: County auditors; County recorders; Local civil taxing units and school corporations.

Information Sources:

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